

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	
)	
v.)	Civil Action No. 1:17-mc-18
)	
COBALT COAL, LTD.,)	
WESTCHESTER COAL LP, and)	
COBALT COAL CORP. MINING, INC.)	
)	
Respondents)	

RESPONDENT COBALT COAL, LTD'S RESPONSE TO PETITIONER'S
MOTION TO COMPEL AND APPLICATION FOR ATTORNEY FEES

Now comes the respondent, Cobalt Coal, Ltd., by counsel, and for its response to petitioner's Motion to Compel and Application for Attorney Fees states as follows:

1. Prior to the Motion to Compel being filed, the respondent tendered to the petitioner the following documents shown on the attachment designated as "Part A." (Exhibit 1)

2. Thereafter your undersigned had communication with Paul Thomas, counsel for petitioner, concerning what was lacking as the documents mentioned in Paragraph 1 above were tendered directly to the petitioner and not known by your undersigned.

3. Further documents were disclosed to petitioner on August 3, 2018 with follow up questions inquiring if more documents were being requested. See email dated August 22, 2018 attached hereto. (Exhibit 2)

4. The next round of documents was tendered to petitioner on August 25, 2018 with an email asserting that it "(s)hould fulfill your request except for the Steinman Purchase Agreement. Let me know if you disagree." See email dated August 25, 2018 attached hereto. (Exhibit 3)

5. The next day (August 26, 2018) your undersigned advised counsel for petitioner that there was no Steinman Purchase Agreement. See email dated August 26, 2018 attached hereto. (Exhibit 4)

6. Your undersigned was never advised that still more documents were requested or that the petitioner disagreed with my assertion that the petitioner's request was satisfied until receipt of the Motion to Compel.

7. Additional documents being produced to petitioner on October 8, 2018 are shown on the attached schedule. (Exhibit 5).

8. Petitioner's Motion to Compel was unnecessary and therefore no attorney fees should be awarded. In addition, Cobalt Coal, Ltd. avers that the subpoena has been complied with.

COBALT COAL, LTD.
- by counsel -

s/Daniel R. Bieger, Esq. (VSB #18456)
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Counsel for Cobalt Coal, Ltd.

CERTIFICATE OF SERVICE

I, Daniel R. Bieger, Esq., do hereby certify that on the 8th day of October, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Paul Augustus Thomas
National Labor Relations Board
1015 Half Street, S.E., Fourth Floor
Washington, DC 20003
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Helene Debra Lerner
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s/Daniel R. Bieger, Esq.